

REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS  
696 VIRGINIA ROAD  
CONCORD, MASSACHUSETTS 01742-2751

November 13, 2003

Regulatory Division  
CENAE-R  
File No. 200103091

Gene Muhlherr  
Islander East Pipeline Company LLC  
1284 Soldiers Field Road  
Boston, Massachusetts 02135

Dear Mr. Muhlherr:

This letter refers to your application for a Department of the Army permit to upgrade existing Algonquin natural gas facilities; construct a new interstate natural gas compressor station in Cheshire, Connecticut; and construct approximately 50.4 linear miles of new 24" natural gas pipeline commencing from an existing meter station in North Haven, Connecticut and terminating at planned power plants in Brookhaven and Calverton, New York. The upgrade and new pipeline right of way will traverse waterbodies and impact wetland areas in both Connecticut and New York, and commence a crossing of Long Island Sound in the vicinity of Juniper Point at Branford, Connecticut with a landfall in the vicinity of Wading River, New York.

We want to explain what options are currently available to us in light of the recent permit actions taken by the State of Connecticut, to provide you with the status of our review of your permit application, and to identify additional information we feel is necessary to continue the review of your application.

## OPTIONS

As you are aware, the State of Connecticut Department of Environmental Protection Office of Long Island Sound Programs (CT DEP OLISP) issued a negative determination of your project's consistency with the federally approved coastal zone management program on July 29, 2003. In addition, the CT DEP OLISP issued a notice of tentative determination to deny the Water Quality Certification on August 5, 2003.

33 CFR 325.2(b)(1)(ii) of Corps regulation requires that no permit be granted until the required certification has been obtained or has been waived. If the state agency objects to the certification or issues a decision indicating that the proposed activity requires further review, the district engineer shall not issue the permit until the state concurs with the certification statement, or the Secretary of Commerce determines that the proposed activity is consistent with the purposes of the CZM Act or is necessary in the interest of national security [33 CFR 325.2 (b)(2)(ii)].

In the event that a Federal, state and/or local authorization and/or certification has been denied for an activity which also requires a Department of the Army permit, the District Engineer (DE) will, after considering the likelihood of subsequent approval of the other authorizations and/or certification and the time and effort remaining to complete processing the Army permit

application, take one of two actions; either immediately deny the Army permit without prejudice or continue processing the application to a conclusion [33 CFR 320.4(j)(1)]. This is further explained as follows:

Denial Without Prejudice - This action means that there is no prejudice to your right to reinstate processing of the Army permit application if/when subsequent approval is received from the appropriate Federal, state and/or local agency on a previously denied authorization and/or certification. Even if official certification and/or authorization is not required by state or federal law, but a state, regional, or local agency having jurisdiction or interest over the particular activity comments on the application, due consideration shall be given to those official views as a reflection of local factors of the public interest.

Continue Processing the Application - If the DE resolves to continue processing the application to a conclusion, he will conclude the process in one of two ways; by either denying the permit as contrary to the public interest, or denying it without prejudice indicating that except for the other Federal, state or local denials the Department of Army permit could, under appropriate conditions, be issued [33 CFR 320.4 (j)(1)].

Administrative Withdrawal - A third alternative is that you can request administrative withdrawal of your Department of Army application. Pending resolution of the denied authorization and/or certification, the application can be reactivated or a new application can be submitted and we will resume processing and evaluation of the proposed activity.

## STATUS OF REVIEW

We have been reviewing the various letters of comment and the detailed exhibits/transcripts submitted in response to the Public Notice and Public Hearing comment period, which closed on September 15, 2003. We have also been actively coordinating with staff from FERC in an attempt to understand the purpose of pipeline redundancy, reliability and market competition referred to in your file documentation.

In addition the Corps has completed a review of the proposed open water disposal component of your project to determine whether the disposal of your dredged material at the Central Long Island Sound Disposal Site requires additional sediment chemistry testing and evaluation pursuant to the requirements of Section 103 of the Marine Protection, Research and Sanctuaries Act." A draft sediment suitability determination for disposal of 24,000 cubic yards of sediment at CLIS was forwarded to Federal and State regulatory agencies for review and comment on October 30, 2003. We anticipate agency comments by November 13<sup>th</sup>. We have made a preliminary determination that further testing of the material is not necessary as bulk sediment chemistry indicates the sediment is not a carrier of contaminants and preliminarily that the material is suitable for unconfined open water disposal at the CLIS.

## ADDITIONAL INFORMATION

Our review of the August 5, 2003 Public Hearing Transcripts and other documents within the project administrative record indicate that there are several items that still need to be addressed or that require further clarification.

1. You indicate that the Iroquois ELI System Alternative would require more compression but fewer miles of pipeline and less permanent right-of-way, and that the additional compression would increase construction costs. Discuss the tradeoffs of cost of additional compression as compared to the cost per mile of pipeline, giving consideration to your proposed special construction techniques including horizontal directional drilling and anticipated ripping and potential blasting through areas with shallow depth to bedrock as identified on Table 3.1.1-1 of the FERC's August 2002 Final Environmental Impact Statement.

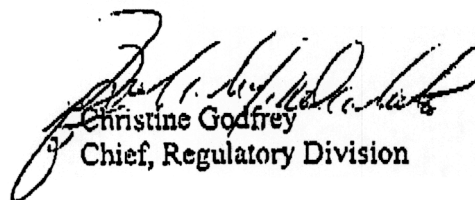
2. The bedrock assessment and review of the Town of North Branford's comments on the application, including a groundwater contamination study conducted by Rizzo Associates, indicates that it is reasonably foreseeable that construction, especially blasting, in the vicinity of the Rivezzi property, between Mileposts 5.4 and 5.6, will result in the migration of an existing plume of tetrachloroethylene (PCE) through the underlying bedrock, which according to assessment of remediation options, cannot be prudently contained or controlled and may risk not only local well water supplies that have not yet been contaminated but also a regional watershed supplying water to over 175,000 individuals.

Our administrative record does not contain enough information to evaluate the direct, indirect and secondary impact of pipeline construction through this contaminated area. It appears that the extent of contaminant phases at the site and their distribution, both horizontal and vertical, has not been fully characterized and/or documented. We need to assess the potential impact of pipeline construction to spread the localized contamination, IE needs to submit the results of a site-specific study that adequately characterizes the extent of contamination along and immediately adjacent to the proposed pipeline corridor. The study should identify the reasonably foreseeable impact of blasting in this area and identify measures that can be undertaken to avoid and minimize the potential to exacerbate the spread of existing PCE.

3. IE anticipates future transport of 445,000 Dth/day natural gas for its initial shippers within 5 years of commencement of initial deliveries. Indicate how IE would expand capacity of the proposed 260K Dth/day transmission system without incurring additional environmental impact. If the anticipated expansion of the facilities will result in additional environmental impact, this must be included in the Corps cumulative impacts analysis for this application. Please describe the conceptual facilities and technology needed to supply the above-predicted quantity of natural gas to be delivered, and include a brief discussion of the potential aquatic impacts.

If you have any questions concerning this matter, please contact Ms. Cori M. Rose, of my staff, at (978) 318-8306 or via email at [cori.m.rose@usace.army.mil](mailto:cori.m.rose@usace.army.mil).

Sincerely,



Christine Godfrey  
Chief, Regulatory Division

**Copies Furnished:****CT DEP, OLISP**

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